

TAB 13b

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

_____	x	
	:	
THE CITY OF HUNTINGTON,	:	Civil Action
	:	
Plaintiff,	:	No. 3:17-cv-01362
	:	
v.	:	
	:	
AMERISOURCEBERGEN DRUG	:	
CORPORATION, et al.,	:	
	:	
Defendants.	:	

_____	x	
	:	
CABELL COUNTY COMMISSION,	:	Civil Action
	:	
Plaintiff,	:	No. 3:17-cv-01665
	:	
v.	:	
	:	
AMERISOURCEBERGEN DRUG	:	
CORPORATION, et al.,	:	
	:	
Defendants.	:	

BENCH TRIAL - VOLUME 23
BEFORE THE HONORABLE DAVID A. FABER, SENIOR STATUS JUDGE
UNITED STATES DISTRICT COURT
IN CHARLESTON, WEST VIRGINIA

JUNE 9, 2021

1 the harms of diversion; correct?

2 **A.** That is correct.

3 **Q.** In fact, one of the DEA's core functions is to prevent
4 the diversion of controlled substances into illicit
5 channels; correct? That's a core function of the DEA?

6 **A.** Yes.

7 **Q.** At the same time, and I think you talked about this in
8 some of your testimony yesterday particularly on quota, DEA
9 has a mission to ensure an adequate and uninterrupted supply
10 of controlled substances; correct?

11 **A.** That's correct.

12 **Q.** And you agree that it's vital that an adequate and
13 uninterrupted supply of pharmaceutical controlled substances
14 be available for effective patient care?

15 **A.** Yes.

16 **Q.** It's a public health concern when pharmacies cannot
17 dispense legitimate pharmaceutical controlled substances to
18 patients; correct?

19 **A.** To legitimate patients, yes.

20 **Q.** There can be no doubt that drug shortages adversely
21 affect the public health; correct?

22 **A.** That's, that's obvious, yes.

23 **Q.** All right. From your experience, you agree that when
24 it comes to the supply of prescription opioids, supply does
25 not drive demand?

1 **A.** Supply does not drive demand.

2 MR. ACKERMAN: Your Honor, while Mr. Schmidt is
3 writing, if it's at all possible for the Court to move that
4 to our screens, then I don't need to stand here with my
5 friends.

6 MR. SCHMIDT: Yeah, no objection, of course.

7 THE COURT: Yeah. Just find a good place there,
8 Mr. Ackerman.

9 MR. SCHMIDT: I'm sorry. Before you switch it,
10 the problem is that we may need to put up documents on the
11 individual screen.

12 MR. ACKERMAN: All right. I'll find a chair over
13 here.

14 MR. SCHMIDT: There's an empty one at my table.

15 (Laughter)

16 BY MR. SCHMIDT:

17 **Q.** Going back to this point, when it comes to demand
18 for prescription opioids, that comes not from supply but
19 from prescribing and dispensing in hospitals; correct?

20 **A.** No, not necessarily. Demand also -- when we're talking
21 about quota, it has things to do with research and
22 development, validation, export, things like that.

23 **Q.** When it comes to -- let me rephrase. When it comes to
24 demand, demand comes from things like prescribing,
25 hospitals, research and development, export; correct?

1 **A.** For that portion of the quota. Well, yeah, total, yes.

2 **Q.** The demand is driven by patient care and patient needs;
3 correct?

4 **A.** A large part of the quota is patient needs.

5 **Q.** Not by supply; correct? I didn't hear if you answered.
6 I apologize, sir. Not by supply; correct?

7 **A.** No, supply is not what drives demand.

8 COURT REPORTER: I'm sorry?

9 THE WITNESS: Demand drives the quota.

10 BY MR. SCHMIDT:

11 **Q.** Your understanding of what drives demand for
12 opioids is appropriate medical treatment; correct?

13 **A.** Yes, if -- appropriate medical treatment, yes.

14 **Q.** And prescription opioid levels in turn -- prescription
15 opioid levels in turn are based on the presumption that
16 medical need is legitimate; correct?

17 **A.** Yes. Appropriate medical treatment does drive some of
18 the demand, yes.

19 **Q.** And just because you have a supply of prescription
20 opioids does not mean the supply must be used; correct?

21 **A.** That's correct.

22 **Q.** Correspondingly, reducing supply doesn't necessarily
23 reduce demand; correct?

24 **A.** That's correct.

25 **Q.** All right. Now, in terms of supply level, you never